

In the Supreme Court of the State of Alaska

**John L. (Father) and Edna L.
(Mother),**

Appellants,

v.

State of Alaska, DHSS, OCS,
Appellee.

Supreme Court Nos. **S-18254/S-18256**

Order

Date of Order: **9/13/2022**

Trial Court Case No. **3PA-18-00089CN**

Before: Winfree, Chief Justice, Maassen, Carney, and Henderson,
Justices [Borghesan, Justice, not participating.]

This appeal follows remand proceedings after our decision in *Edna L. v. State of Alaska, Department of Health & Social Services, Office of Children's Services*.¹ In that decision we reversed the superior court's termination of Edna L.'s and John L.'s parental rights after an abbreviated Families with Infants and Toddlers Court (FIT Court) process.² We concluded that the FIT Court proceedings denied the parents their statutory rights to a reasonable time to remedy the conduct or conditions rendering the children in need of aid and that the superior court had not obtained knowing and voluntary waivers of those statutory rights from the parents.³ We specifically noted the superior court's statement that in any other case the mother would have been given more time for remedial efforts "99% percent of the time" and that "a few months might have made a

¹ 477 P.3d 637, 649 (Alaska 2020).

² *Id.* at 644-49.

³ *Id.*

difference.”⁴ Although expressing significant concerns that the FIT Court proceedings violated the parents’ constitutional due process rights, the decision was based on the narrow grounds stated.⁵ We remanded “for further proceedings.”⁶

Our intent was that the remand be for further efforts — as provided under statutes and rules — by the Office of Children’s Services (OCS) and the parents to reunify the family. But OCS and the guardian ad litem persuaded the superior court to simply look again at the termination trial evidence — without regard to the abbreviated nature of the case — to see if the parents actually had the statutorily required “reasonable time” to remedy the conduct or conditions rendering the children in need of aid and, if so, to terminate the parents’ parental rights. The superior court did so: by inappropriate application of *nunc pro tunc*, it then terminated the parents’ parental rights effective as of the earlier, vacated termination order’s date (rather than as of the second termination order’s date).

The superior court’s decision is not consistent with the intent of the remand order⁷ It is unfortunate that the parents did not petition for review when the superior

⁴ *Id.* at 642-645.

⁵ *Cf. id.* at 649-50 (Stowers, J., joined by Carney, J., concurring).

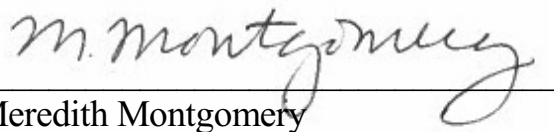
⁶ *Id.* at 649 (majority opinion).

⁷ Interpretation of a court order is a question of law. *Johnson v. Siegfried*, 838 P.2d 1252, 1254 (Alaska 1992). When we issue a specific mandate, a trial court may not deviate from it. *Gaudiane v. Lundgren*, 754 P.2d 742, 744 (Alaska 1988). A trial court may take action not inconsistent with our decision; whether a trial court acted inconsistently with our decision is a question of law. *Id.*

court entered its order stating its course of action, when we would have had an opportunity to intercede and clarify any unnecessary confusion. It also is unfortunate that yet more time has passed without a resolution of the child's future. But parental rights simply cannot be ignored. We therefore REVERSE and VACATE the termination order and REMAND for further child in need of aid proceedings according to the statutes and rules — specifically, for OCS and the parents to make further reunification efforts (which apparently have not been made since at least the initial termination trial).⁸

Entered at the direction of the court.

Clerk of the Appellate Courts


Meredith Montgomery

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⁸ The parties' briefing reflects that the child has been adopted by another family. [*See, e.g., Ae. Br. 24*] But there is nothing in the record about the adoption proceedings or why and how the adoption took place while the appeal(s) were pending, nor did the parties discuss the effect of the adoption on the underlying proceedings. We express no opinion whether the adoption is valid or invalid or whether the adoption renders further child in need of aid proceedings moot. The superior court likely will be required to consider these issues on remand.